NPDB-HIPDB Data Bank News

National Practitioner Data Bank—Healthcare Integrity and Protection Data Bank

January 2007

PDS—Innovation and Opportunity

Enjoy the benefits of an innovative Data Bank service that offers you the opportunity for continuous monitoring of your practitioners. The Proactive Disclosure Service (PDS) notifies you of new or modified reports on enrolled practitioners and gives you the ability to access information, 24/7, 365 days a year without querying. Data Bank reports will be available immediately, and the format and content of Data Bank reports remain the same; hence, there is no need for "retooling" or retraining.

Reserve a place for your Data Bank entity now, and you will be ready to enroll your practitioners when the PDS goes on-line in May 2007. It is anticipated that the annual enrollment fee will be $3.25 per practitioner per Data Bank. The fee is official when it is announced in the Federal Register. Based on our research, the total cost for PDS enrollment for a two-year period should be no more than for individual queries, based on typical querying patterns.

PDS notifies you via e-mail within one business day of the Data Banks' receipt of a report or change to a report on any of your enrolled practitioners. In contrast to submitting a query each time you need information, all you will need to do is log in to the Integrated Querying and Reporting Service (IQRS) or use the Interface Control Document Transfer Program (ITP) to retrieve reports.

*See **PDS—Innovation and Opportunity** on page 3*

Inside this issue:

Recently Updated FAQs

The Frequently Asked Questions (FAQs) section of the Data Banks' Web site expanded in November, providing up-to-date answers to your questions about the Data Banks' technical operations and policies. The updated FAQs are available at *www.npdb-hipdb.hrsa.gov/faq.html* and feature the following convenient enhancements:

Common NPDB-HIPDB Definitions and Links to Data Bank Fact Sheets

At the top of each FAQs section, links to common Data Banks' definitions and relevant fact sheets are cited to provide additional information to users.

*See **Recently Updated FAQs** on page 3*

Reporting Malpractice Payments Based on "High-Low" Agreements

Recently the Practitioner Data Banks Branch (PDBB) examined medical malpractice payment reports submitted to the National Practitioner Data Bank (NPDB) that were made in accordance with "high-low" agreements.

"High-Low" Agreements

A "high-low" agreement is a contract between a plaintiff and a defendant's insurer that defines the parameters of a payment the plaintiff may receive after a trial or arbitration proceeding. The agreement must be in place prior to a verdict or arbitration decision. In the instance of a high-low agreement, the defendant agrees to pay the "low-end" amount to the plaintiff if the verdict or decision is for the defendant. The defendant agrees to pay no more than the "high-end" amount to the plaintiff if the verdict or decision is for the plaintiff. High-low agreements are used by both sides to limit their risk. They are used by plaintiffs to ensure that they will receive an acceptable amount even if they lose the case or win only a small award. They are used by defendants to limit the amount they may be required to pay if the plaintiff wins the case.

Reportable to the Data Banks?

Many payments resulting from high-low agreements are reportable to the NPDB, but some are not. Specifically, payments made at the low-end of a high-low agreement are not reportable to the NPDB if the fact-finder assigns no liability to the defendant. However, payments made at the low-end of an agreement are reportable if the fact-finder assigns liability to the defendant.

Payments made at the high-end of the agreement are reportable to the NPDB. When a practitioner is found to be liable, any payment made for the practitioner's benefit must be reported, regardless of the existence of a high-low agreement.

Malpractice payment reporters should review their files on medical malpractice payments made as a part of high-low agreements and make certain that they have been reported correctly to the NPDB. Any payment pursuant to the low-end of the agreement when the fact-finder ***explicitly*** ruled in favor of the defendant (i.e., the fact-finder found no liability on the part of the practitioner) is not reportable to the NPDB and ***must be voided***. Reporters who need assistance with voiding one of these reports in the Data Bank can contact the Customer Service Center at 1-800-767-6732.

High-Low Scenarios

Here are some scenarios that show when medical malpractice payments made in accordance with high-low agreements **should** and **should not** be reported:

Example 1: A high-low agreement is in place prior to trial. The parties agree to a low-end payment of $25,000 and a high-end payment of $100,000. The jury finds the defendant physician liable and awards $20,000 in damages to the plaintiff. This $20,000 payment is **reportable** because the jury found the defendant physician liable. The defendant's insurer must pay an additional $5,000 as a result of the high-low agreement ($20,000 + $5,000 = $25,000). The payment amount should be reported as $20,000, with the additional $5,000 resulting from the high-low agreement explained in the narrative.

Example 2: A high-low agreement is in place prior to trial. The parties agree to a low-end payment of $50,000 and a high-end payment of $150,000. Before the fact-finder returns a judgment, the parties reach a further agreement to settle the case for $100,000. This payment is **reportable** because it is made in settlement of the claim. The high-low agreement has no effect on the reportability of the payment.

Example 3: A high-low agreement is in place prior to trial. The parties agree to a low-end payment of $50,000 and a high-end payment of $100,000. Rather than go to trial, the parties agree to binding arbitration only to assess the amount of the payment the plaintiff will receive and not to determine liability. The arbitrator awards the plaintiff $60,000. In this case, the arbitration was conducted to determine the amount of recovery by the plaintiff. Because liability was not determined at this arbitration proceeding, there was no explicit finding that the practitioner had no liability. The payment of $60,000 is made in settlement of the claim, and not as a result of the high-low agreement, and is therefore **reportable**.

Example 4: A high-low agreement is in place prior to binding arbitration. The parties agree to a low-end payment of $50,000 and a high-end payment of $150,000. The arbitrator finds in favor of the defendant practitioner with no liability on the part of the practitioner. However, given the existence of the high-low agreement, the defendant's insurer makes a payment of $50,000 to the plaintiff (the low-end payment). This payment is **not reportable** because the arbitrator (the fact-finder) found no liability and the payment is being made at the low-end of a high-low agreement, pursuant to an independent contract between the defendant's insurer and the plaintiff.

High-low agreements are discussed in the *NPDB Guidebook* at Chapter E. Reports page E-13, which can be downloaded at *www.npdb-hipdb.hrsa.gov/npdbguidebook.html*.

PDS—Innovation and Opportunity *continued from page 1*

Valuable PDS credentialing features include:

- Enrollment meets the mandatory hospital querying requirements of the *Health Care Quality Improvement Act of 1986*, as amended.
- The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) supports the PDS "as an acceptable alternative to directly querying the NPDB."
- The National Committee for Quality Assurance (NCQA) indicates that the PDS may be used to review malpractice settlements or judgments paid on behalf of a practitioner at initial credentialing (CR3) and recredentialing (CR7); verify sanctions and limitations on licensure and Medicare/Medicaid sanctions at initial credentialing (CR5) and recredentialing (CR7); and conduct on-going monitoring of sanctions and limitations on licensure and Medicare/Medicaid sanctions (CR9).
- The Centers for Medicare & Medicaid Services (CMS) "views a provider's use of the PDS as consistent with CMS hospital requirements for quality assessment and medical staff privileging."

Data Bank users can complete the participation form included with this newsletter and return it to the Data Banks to request participation in the PDS prototype. If you would like to learn more about the PDS prototype, you can contact the NPDB-HIPDB Customer Service Center at 1-800-767-6732 or via e-mail at *npdb-hipdb@sra.com*.

Recently Updated FAQs *continued from page 1*

MORE EASILY NAVIGATED PAGES

FAQs pages contain answers to common user questions as well as new links to relevant fact sheets, conveniently delivering pertinent information to users. Customer Service Center contact information and Guidebook excerpts are prominently featured and easily accessible from these FAQs for those users who desire more detailed information.

EXPANDED FAQS CATEGORIES

Many new categories of FAQs have been added, and existing categories have been greatly expanded. The entire list of FAQs categories appears below:

- General Questions.
- Eligibility Criteria.
- Registration (New, Update, Renew).
- Authorized Agents.
- Payment Methods.
- Self-Query (Practitioners, Providers, and Suppliers).
- Querying.
- Reporting.
- National Practitioner Data Bank (NPDB) Query and Report.
- Healthcare Integrity and Protection Data Bank (HIPDB) Query and Report.
- Narrative Descriptions.
- Dispute Process and Secretarial Review.
- Integrated Querying and Reporting Service (IQRS).
- Interface Control Document Transfer Program (ITP).
- Querying and Reporting XML Service (QRXS).
- Security.
- Error Messages.
- Common NPDB-HIPDB Definitions.
- Proactive Disclosure Service (PDS) (coming soon).

Please take a look at the recently improved FAQs pages to find answers to many of your questions. To clarify a response or answer follow-up questions, the Customer Service Center (1-800-767-6732) is available weekdays from 8:30 a.m. to 6:00 p.m. (5:30 p.m. on Fridays) Eastern Time. The Customer Service Center is closed on all Federal holidays.

Compliance: The DIET is Working for You

The Data Banks are working hard to assure that queriers receive accurate, timely and comprehensive information. For the past four years, the Practitioner Data Banks Branch (PDBB) has had a team of staff members who work on compliance issues. This team is known as the Data Integrity and Evaluation Team (DIET). The DIET's objectives are to monitor compliance with National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reporting requirements and intervene when patterns of non-compliance are observed.

The DIET has developed a work plan to assist them with their compliance activities including ongoing efforts to monitor an entity's eligibility to register with the Data Banks, review the frequency and timeliness of reporting as well as the accuracy and completeness of individual reports, and investigate alleged breaches of confidentiality or unauthorized queries. The objectives of the DIET plan are to identify all areas of non-compliance; prioritize the intervention efforts; evaluate the effectiveness of the interventions annually; use available resources efficiently; highlight any need for additional resources; and request assistance from the Office of Inspector General (OIG), when necessary. The OIG, not PDBB, has the authority to sanction entities or individuals determined to be in non-compliance with the Data Banks. The DIET plan enables PDBB to monitor and retune its efforts as needed while continuing to focus on current priorities.

One major focus of the DIET team concerns timely reporting. The DIET is making a concerted effort to encourage reporters to submit complete and accurate reports within 30 days of taking a final action or making a medical malpractice payment. Special attention is being given to the timeliness of State licensure adverse action reports.

Improving timely reporting is only one of numerous compliance activities managed by the PDBB. The following are the priorities established for 2006 – 2007: Review the registrations of entities registered as "other" to determine if new, more descriptive, categories are needed; continue the current intervention activities to improve reporting accuracy, completeness, and frequency with the Drug Enforcement Administration, the State Medicaid Fraud Control Units, medical malpractice reporters, and other reporters; and investigate and resolve all complaints of breach of confidentiality.

You can help the Data Banks fulfill its DIET objectives by reviewing your reporting processes to improve the accuracy, completeness and timeliness of submitting reports. As a querier, you also can assist by reporting potential non-compliance issues to the Customer Service Center at 1-800-767-6732 or e-mail at *npdb-hipdb@sra.com*.

Helpful Hints From

Is Your Computer System Protected From Viruses?

Any person connected to the Internet has the potential to have their workstation infected by viruses such as spyware, worms, adware, malware, etc. Spyware is technology that gathers information about a person or organization without their knowledge. A form of spyware that can compromise your computer data and all data you may enter into Web sites is known as keystroke loggers. Keystroke loggers are designed to log keystrokes that are typed on an infected machine and transmit a record of those keystrokes to another machine on the Internet. Thus, even if the infected user is accessing a secure Web site protected by strong data encryption with user names and passwords, the keystroke loggers will transmit all typed entries in the clear to a potential hacker or thief, compromising the integrity of any application being used on the infected machine.

There have been incidents where keystroke loggers have infected Internet users including health care entities. Keystroke loggers typically attempt to compromise information associated with credit card numbers as well as other information that could be used for identity theft. Don't let this happen to you. Don't let your business

Data Bank Meetings and Outreach Activities

NPDB Executive Committee Meeting

The National Practitioner Data Bank (NPDB) Executive Committee met on November 28, 2006, at the Sheraton Crystal City Hotel in Arlington, VA. The Committee is composed of representatives of licensing board associations, professional societies, medical malpractice organizations, consumer groups, accrediting bodies, and other NPDB stakeholders. The Committee typically meets twice a year to provide guidance to the NPDB contractor, SRA International, Inc. (SRA). Focal points of the November meeting included:

- Status reports on NPDB operations presented by the U.S. Department of Health and Human Services' Practitioner Data Banks Branch and SRA.
- The re-election of the Committee Chair and Vice-Chair to another two-year term.
- A report on "NPDB Executive Committee Composition: With Section 1921" discussing whether to restructure the NPDB Executive Committee to include Section 1921 stakeholder organizations. Section 1921 will expand the NPDB to include actions taken against all licensed practitioners and entities.
- A report on "Emergency Preparedness: Lessons Learned" summarizing the response and credentialing process during disasters, such as Hurricane Katrina, and lessons learned from these experiences.
- An update on the status of the Proactive Disclosure Service (PDS). For more information, see the PDS article on page 1 of this newsletter.
- An update on Data Bank policy.

The next NPDB Executive Committee meeting is scheduled for May 22, 2007 in Arlington, VA.

Upcoming Outreach Activities

The Data Banks will make presentations on the PDS, Section 1921, and the importance of timely reporting to the Data Banks at the following meetings and conferences:

January

- American Association of Preferred Provider Organizations (AAPO) Annual Forum (San Diego, CA, January 28-30).

February

- National Credentials Forum (NCF) Annual Meeting (San Diego, CA, February 8-9).

April

- Wisconsin Association Medical Staff Services (WI AMSS) 2007 Spring Conference (Madison, WI, April 19-20).
- Illinois Association Medical Staff Services (IAMSS) 2007 Annual Conference (Oak Brook, IL, April 26-27).

May

- Administrators in Medicine Executive Committee Meeting (San Francisco, CA, May 5).
- California Association Medical Staff Services (CAMSS) 2007 36th Annual Education Forum (Rancho Mirage, CA, May 21-25).

The Data Banks

practices and confidential information be jeopardized by this form of attack. Some steps to protect your system include making sure that you have anti-virus, anti-spyware, and anti-spam software installed locally on your computer. This software must always be kept up-to-date with current signatures and full machine scans should be run regularly. Be sure to follow up with your Information Technology department to ensure that these safeguards are in place.

45-Day Viewing Period for IQRS Query Responses!

In response to Integrated Querying and Reporting Service (IQRS) user requests, query responses are now available for viewing and printing on the IQRS for 45 days instead of 30 days. Once the 45-day period expires, the query responses will no longer be available. If you think you will need access to a query response beyond this timeframe, you may print out a hard copy or save the query response file to your computer's hard drive for later use.

The IQRS: Information at Your Fingertips

Navigating the National Practitioner Data Bank—Healthcare Integrity and Protection Data Bank (NPDB-HIPDB) Integrated Querying and Reporting Service (IQRS) is easy and gives registered users all the functions they need to electronically query and report to the Data Banks. The IQRS is efficient and responsive in performing Data Bank functions. These functions include renewing an entity registration, updating entity information, assigning an authorized agent to query and/or report on behalf of your entity, storing subject information in the IQRS, assigning individual entity users specific querying and reporting privileges, and accessing a summary of historical query and report information. The IQRS also sends Data Bank users valuable information and important messages through the Data Bank Correspondence feature.

IQRS FEATURES

- Automatically routes queries and reports to the appropriate Data Bank(s) based on the entity's registered statutory authority, preferences, and/or the nature of what is being reported.
- Enables users to save drafts of reports before actually submitting final reports to the Data Banks.
- Allows users to store their user information (name, title, etc.) in their user account so that these data elements pre-populate in the Certification field.
- Enables administrators to store one or more credit cards on file with the Data Banks and to assign specific users to use each credit card so that the data is kept private.
- Provides on-screen **Help** buttons, which display user information that is pertinent to the screens.
- Permits entities to create multiple user IDs so entities may have several employees performing queries and reports while maintaining individual accountability for each user.
- Allows entities to establish, maintain, and terminate a relationship with an authorized agent to work on their behalf.
- Provides billing screens that enable users to view past charge receipts to reconcile Electronic Funds Transfer (EFT) and credit card charges.
- Enables users to import and maintain subject databases within the IQRS. If registered entities and authorized agents maintain electronic practitioner records in proprietary databases, those records may be transferred into the entity's IQRS subject database in multiple formats (fixed-width and XML). Users may also select the "Save" box when completing a blank *Report Input* or *Query Input* form to save the subject information to the subject database.
- Enables users to obtain a summary of historical queries and reports submitted by their entity on or after June 1, 2000. This aids entities in verifying that specific queries and/or reports were submitted.
- Notifies users when a potential duplicate subject is added to the subject database. The goal is to prevent duplicate queries.
- Allows an entity's successor to maintain a report (should one entity buy another, for example).
- Operates on a secure Internet server for querying, reporting, data storage, and retrieval. Firewall protection, encryption of transmitted data, unique passwords, and user IDs all contribute to a secure environment.
- Performs validation checks to significantly reduce the number of reports rejected for missing, incomplete, or conflicting data values. The IQRS also prompts the user for data elements that are appropriate for each particular action being reported.

The IQRS enables registered entities to meet the Federal requirements to report to and query the NPDB and the HIPDB in a timely and efficient manner.

The Data Banks regularly hold outreach activities to gather feedback from the entities who use the system. Improvements are made based on the feedback received from these events. The Data Banks welcome new ideas for enhancing the user experience of the IQRS. Please send your ideas to the Customer Service Center by phone (1-800-767-6732) or by e-mail at *npdb-hipdb@sra.com*.

Do You Have Your Practitioners' NPIs?

What is the National Provider Identifier Number (NPI)?

The NPI is a unique 10-digit identification number that is currently being assigned to health care providers by the Centers for Medicare & Medicaid Services (CMS). The creation of the NPI is a result of the *Health Insurance Portability and Accountability Act of 1996* (HIPAA), which mandates that the Secretary of U.S. Health and Human Services adopt a standard unique health identifier for U.S. health care providers. The NPI is a requested field on *Query Input* and *Report Input* forms.

Important Dates for NPI Compliance

Health care providers must use their assigned NPI number to identify themselves by the compliance date: **May 23, 2007**. Small health plans have until May 23, 2008 to implement the NPI number as their identifier.

Your practitioners can receive instructions on applying for their NPI number by visiting *nppes.cms.hhs.gov*.

Who Can Apply for an NPI?

All HIPAA health care **providers**, including physicians, dentists, and pharmacists and organizations such as hospitals, nursing homes, pharmacies, and group practices must apply and receive a NPI.

Start collecting your practitioners' NPIs now for future use with the Data Banks!

Dear Data Banks...

This column answers questions you may have about Data Banks policy and procedures. **If you have a question about how the Data Banks work, please write to Dear Data Banks at P.O. Box 10832, Chantilly, VA 20153-0832 or e-mail your question to "Dear Data Banks" at *npdb-hipdb@sra.com*.** We look forward to hearing from you!

Question: As a settlement in a lawsuit against two practitioners, my health plan made a $750,000 payment to the plaintiff. The settlement was split as a $500,000 medical malpractice payment for the benefit of an internist and a $250,000 medical malpractice payment for the benefit of the cardiologist. Is my organization responsible for submitting one or two Medical Malpractice Payment Reports (MMPRs) to the National Practitioner Data Bank (NPDB)?

Answer: Your health plan must submit **two** MMPRs to the NPDB because you are required to file a separate report for each practitioner when a payment is made for the benefit, in settlement of, in satisfaction in whole or in part of, a claim or judgment against that practitioner. Each report must include the actual amount paid for the benefit of each practitioner. If the judgment or settlement does not specify an amount for each of the named practitioners, the reporter must allocate an amount to the named practitioners in each report as well as specify in each report the total amount paid for all practitioners and the number of practitioners for whom payment was made. If there is no other basis for allocating the total payment, the reporter may simply arbitrarily divide the total payment by the number of practitioners to determine the amount to report for each practitioner. In any event, the reporter must explain in the narrative the method used to allocate the payment. If the allocation was arbitrary, the reporter may explicitly state that the allocation was arbitrary and does not imply any determination as to the practitioner's degree of responsibility.

Question: How do I correct a report that I previously submitted to the Data Bank(s) through the Integrated Querying and Reporting Service (IQRS)?

Answer: To correct a previously filed report, log in to the IQRS and select **Report** on the *Options* screen. Select **Correct** or **Modify a Report** on the *Report Type* screen. You will be prompted to enter the Data Bank Control Number (DCN) of the report to be corrected. Click **Continue**, and the report will be retrieved. Make the corrections to the report and submit the changes.

If you have an urgent question, please call the Customer Service Center at 1-800-767-6732. Information Specialists are available to speak with you weekdays from 8:30 a.m. to 6:00 p.m. (5:30 p.m. on Fridays) Eastern Time. The Customer Service Center is closed on all Federal holidays.

National Practitioner Data Bank
Healthcare Integrity and Protection Data Bank

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DO YOU ACT AS AN AUTHORIZED AGENT?

Please provide the following information **if you act as an Agent**. **Note**: If you represent multiple entities that plan to enroll in PDS, check the box below and attach entity information separately to this form.

☐ **Yes, I represent more than one entity that plans to enroll in PDS. I am attaching information for ___ (number of entities) to this form.**

Entity Name: _____

Entity DBID: _____

Entity Contact Name for PDS: _____

Entity Phone Number: _____

Entity E-mail Address: _____

Number of Practitioners That I Will Enroll in PDS for This Entity: _____

ENROLLMENT INFORMATION

Number of Practitioners That I Will Enroll in PDS for My Entity: _____

Total Number of Practitioners That I Will Enroll in PDS: _____

Total Anticipated Annual Enrollment Fee: _____ (The Number of Enrolled Practitioners x $3.25 per Data Bank)

PDS ACCESS METHOD

How Do You Plan to Use the PDS?: **IQRS** ☐ **ITP** ☐

Do You Plan to Use ITP Software Provided by Another Vendor?: **Yes** ☐ **No** ☐

If you plan to use software provided by another vendor, please provide the vendor information below so we may assist them with questions.

Vendor Name: _____

Vendor Contact Name for PDS: _____

Vendor Phone Number: _____

CERTIFICATION

I agree to enroll in the NPDB-HIPDB PDS Prototype. I understand that enrollment will begin on or about May 2007 and that payment must be made upon enrollment.

_____ _____

Department/Entity Representative Signature Date

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PROACTIVE DISCLOSURE SERVICE (PDS) PROTOTYPE

(Please tear out and complete this form.)

Please complete this form and return it to: Attn: PDS Prototype Participation, NPDB-HIPDB, P.O. Box 10832, Chantilly, VA 20153-0832, or you may fax the form to 703-802-4109, or you may e-mail the form to *npdb-hipdb@sra.com*.

ORGANIZATION INFORMATION

Name: _____

Data Bank Identification Number (DBID): _____

Mailing Address: _____

Contact Name for PDS: _____

Phone Number: _____

E-mail Address: _____

Entity Type: **Hospital** ☐ **Health Plan, MCO** ☐ **Licensing Board** ☐ **Other** ☐

If you selected Other above, specify your entity type: _____

DO YOU HAVE AN AUTHORIZED AGENT?

Please provide the following information **if you plan to use an agent for PDS**. **Note**: If you plan to use more than one agent for PDS, check the box below and attach agent information to this form.

☐ **Yes, I have more than one agent. I am attaching information for ___ (number of agents) to this form.**

Agent Name: _____

Agent DBID: _____

Agent Contact Name for PDS: _____

Agent Phone Number: _____

Agent E-mail Address: _____

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On the Horizon

May 2007 marks the beginning of the much anticipated Proactive Disclosure Service (PDS) prototype for continuous report monitoring of PDS-enrolled practitioners. To take advantage of the PDS, please complete the enclosed PDS enrollment form found in this newsletter.

Looking ahead to June 2007, implementation of several user-friendly enhancements will benefit Integrated Querying and Reporting Service (IQRS) and Interface Control Document Transfer Program (ITP) users:

- Reporters will be able to submit corrections to Revision to Action reports. Currently, to correct a Revision to Action report, the reporter must void the current report and resubmit a new report.
- Data Bank reports (Section A) will list the entity's most recent contact information as well as the contact information reported when the report was filed, making it easier for queriers to contact the entity about the report.
- Report narrative and subject statement data fields will expand from 2,000 to 4,000 characters.
- New security enhancements for ITP will require users to change their ITP password every 90 days. Passwords will be changeable through ITP submission and response files. ITP users will be required to download a new client program to incorporate these enhancements.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES

U.S. Health Resources & Services Administration
Bureau of Health Professions
Office of Workforce Evaluation and Quality Assurance
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